IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 22873 of 2004

Between:

The West Godavari Zilla Parishad, Eluru, West Godavari Dist.rep.by its Chief Executive officer.

..... PETITIONER

AND

1 P.Seshagiri, Mandal Parishad, Nallajerla, West Godavari Dist.
2 Government of Andhra Pradesh rep.by its Secretary, Panchayat Raj & Rural Development and Relief, Secretariat, Hyderabad.
3 Mandal Parishad Development officer, Nalljerla Mandal, Nallajerla, West Godavari Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of certiorari by calling for the records relating to O.A.No.377/96 on the file of the Hon'ble Administritive Tribunal of A.P. and consequently quash the orders dt. 28-07-2003 passed in M.A.No.4258 of 01 in O.A.No.377/96 and to pass such other order or further orders.

Counsel for the Petitioner: MR.SRINIVAS DAMMALAPATI

Counsel for the Respondent No.1: ----------

Counsel for the Respondent Nos.2 and 3: GP FOR SERVICES-II

The Court made the following at the admission stage:

ORAL ORDER: (By GB.J.)

The Writ Petition is filed assailing the orders passed by A.P. Administrative Tribunal (for short Tribunal) in O.A.No.377 of 1996, dated 17.9.1997 and M.A.No.4258 of 2001 in OA.No.377 of 1996, dated 28.7.2003.

2. The Zilla Parishad is the writ petitioner before this Court. The 1st respondent filed the above OA seeking payment of difference in salary between the regular scale and the wages paid to him. The Tribunal disposed of the above O.A. with the following directions:

> "Withholding of salary and other allowances of the government servants is permissible only with reference to any disciplinary proceedings initiated and concluded in accordance with the rules as prescribed under the C.C.A. Rules only. For any alleged misconduct of the government servant while in service, the only course left to the respondents is to proceed against him under the C.C.A. Rules. In the counter it is averred that a charge sheet was filed against the applicant and he was also kept under suspension w.e.f. 4.9.1995 until the conclusion of the disciplinary proceedings pending against him. The suspension is initiated in the proceedings No.H6.7571/95, dated 5.9.1995. Admittedly the claim for the salary relates to the period prior to the suspension. Even if the respondents decide to initiate disciplinary proceedings against him, the cause of action is available to them only from the date of initiation of disciplinary proceedings and the respondents cannot withhold the salary or the increments with retrospective effect under law. Therefore, as there is no provision to withhold the salary or increments for the service rendered to the Government, the respondents are directed to release the salary and allowances due to the applicant in pursuance of the order of regularization issued in proceedings dated 10.7.1995 of the Mandal Parishad Development Officer, M.P. Nallajerla, West Godavari District. This exercise shall be completed within three months from the date of receipt of this order. The OA is accordingly disposed of. No costs".

As the said order was not implemented, 1st respondent filed M.A.No.4258 of 2001 and the Tribunal disposed of the same on 28.7.2003 with the following directions:

> "As there is no provision to withhold the salary or the increments with retrospective effect under law. Therefore, as there is no provision to withhold the salary or increments for the service rendered to the Government, the respondents are directed to release the salary and allowances due to the applicant in pursuance of order of regularization issued in proceedings dated 10.7.1995 of Mandal Parishad Development Officer, Mandal Parishad, Nallajerla, West Godavari District. This exercise shall be completed within three months from the date of receipt of this order".

Against the said order, the present Writ Petition has been filed stating that subsequent to the disposal of the OA on 17.9.1997, the Government issued amendment to GO.Ms.No.430, PR & RD (Estt.V) Department, dated 14.11.1997 giving prospective effect to GO.Ms.No.618, PR & RD Department, dated 23.9.1994. In view of this the 1st respondent is not entitled for the difference of wages from 1987.

We have also heard the learned Government Pleader for Services-II.

We are afraid we cannot accept the contention raised by the learned counsel for the petitioner. When the M.A. was being heard on this aspect, the above development was not brought to the notice of the Tribunal. Under those circumstances it is not appropriate for this Court to interfere with the order passed by the Tribunal. Therefore, we do not find any ground to admit the Writ Petition.

Accordingly the Writ Petition is dismissed at the admission stage. However, we grant liberty to the petitioner herein to file an application for review or clarification of the order before the Tribunal. No costs.

(G.BIKSHAPATHY, J.)

10th December, 2004.

(P.S.NARAYANA, J.)

SSR

To

1 P.Seshagiri, Mandal Parishad, Nallajerla, West Godavari Dist.
2 Secretary, Government of Andhra Pradesh, Panchayat Raj & Rural Development and Relief, Secretariat, Hyderabad.
3 Mandal Parishad Development officer, Nalljerla Mandal, Nallajerla, West Godavari Dist.

4 The Registrar, A.P. Administrative Tribunal, Hyderabad.

5 2CCs to G.P. for Services-II, High Court of A.P. Hyderabad. (OUT)

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